

(2) Qwest's Commercial Performance is Excellent

Installation Performance. Qwest is provisioning unbundled local transport to CLECs in a nondiscriminatory manner. From October 2002 through January 2003, where there are data to report, both DSI and DS3 transport service quality was outstanding: Qwest met 100% of its CLEC installation commitments and achieved parity between retail and wholesale performance in every month for every other installation performance measurement. Williams Decl. ¶¶ 250-251.

Maintenance and Repair Performance. Qwest's maintenance and repair performance in Minnesota was exceptional. Under each of the primary performance measurements for UDIT DSI maintenance and repair – trouble clearance, mean time to restore service, the repeat trouble rate, and trouble rate – Qwest achieved parity between retail and wholesale performance in every month with activity over the last four months. *Id.* ¶ 252. These results clearly demonstrate Qwest's non-discriminatory provision of unbundled local transport.

b) Shared Transport

Shared transport consists of transmission facilities shared by more than one carrier, including Qwest, between end office switches, between end office switches and local tandem switches, and between local tandem switches in Qwest's network. Stewart Transport Decl. ¶ 20. Qwest provides shared transport transmission facilities between end office switches, between end office and tandem switches, and between tandem switches in its network, as required by the Commission. *Id.* Qwest provides shared transport in a way that enables the traffic of a CLEC to be carried on the same transport facilities that Qwest uses for its own traffic. *Id.*

ILECs are required to provide unbundled shared transport only where they also provide unbundled switching (as this Commission has noted, it is not technically feasible for a

competitor to use shared transport with self-provisioned switching). *Id.* 721; *UNE Remand Order* ¶ 372. In compliance with this requirement, Qwest offers unbundled shared transport in conjunction with unbundled local switch ports and as part of combinations such as its UNE-P offering. Stewart Transport Decl. ¶21. Shared transport is automatically provisioned when a CLEC orders unbundled switching unless the CLEC requests otherwise. *Id.*

Qwest has demonstrated its ability to provide shared transport through its success in provisioning UNE-P, a standard UNE combination that consists of an unbundled loop, shared transport and unbundled switching. *Id.* ¶ 25.

c) Dark Fiber Transport

The FCC has identified dark fiber as a network element that must be unbundled in both the loop plant and interoffice facilities. *UNE Remand Order* ¶ 326. The FCC's unbundling requirements went into effect for dark fiber on May 17, 2000. 47 C.F.R. § 51.319(d). Following the release of the *UNE Remand Order*, Qwest modified its SCAT to include a legally binding obligation to provide unbundled access to deployed dark fiber. Stewart Dark Fiber Decl. ¶ 5. Qwest's dark fiber offerings include access to existing interoffice, loop and subloop dark fiber, in accordance with FCC requirements. *Id.*

Qwest provides unbundled dark fiber of the same quality as the fiber facilities that Qwest uses to provide service to its own end user customers. See SCAT § 9.7.2.1. Qwest reserves a nominal quantity (not more than five percent of the fibers in a sheath or two strands, whichever is greater) of fibers in a cable to maintain network survivability and reliability. Stewart Dark Fiber Decl. ¶ 8. CLECs may obtain up to 25% of available dark fibers or four dark fiber strands, whichever is greater, in each fiber cable segment over a twelve-month period. *Id.* Qwest does not reserve fiber for unknown and unspecified future growth; it retains for its own

use only fiber that has been specifically earmarked to serve customer needs in the near future.

Id.

Since January 2001, Qwest has received 120 Initial Records Inquiries (“IRIs”) in Minnesota. *Id.* ¶ 29. As of December 31, 2002, 32 dark fiber loops and 46 dark fiber transport facilities were in service in Minnesota. *Id.* In general, Qwest has received so few provisioning requests for unbundled dark fiber within Minnesota, as well as throughout the entirety of its fourteen-state region, that meaningful evaluation of the data is difficult. *Id.* ¶ 25. In fact, on January 17, 2002, the TAG determined that testing relating to certain dark fiber provisioning processes (Exception 3010) should be suspended due to low commercial volumes. *Id.* Testing was subsequently suspended and Exception 3010 was closed as “Unable to Determine.” *Id.* However, through the Third Party Test, Qwest’s responses to CLECs’ dark fiber inquiries and provisioning requests have been analyzed and thoroughly refined, completely satisfying the relevant dark fiber evaluation criteria. *Id.*

Qwest’s new and improved ordering and provisioning process ensures nondiscriminatory treatment once CLECs begin to request unbundled dark fiber in significant numbers. *Id.* ¶ 30. The KPMC-approved nondiscriminatory ordering and provisioning processes outlined in this Application establish that Qwest meets its dark fiber obligations.

Qwest is complying with its obligation to offer “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.” 47 U.S.C. § 271(c)(2)(B)(v). Qwest provides this service for dedicated transport, shared transport and dark fiber transport. Qwest has concrete and specific legal obligations pursuant to Sections 9.6, 9.8, 9.9 and 9.12 of its SCAT to provide CLECs with unbundled dedicated transport on a nondiscriminatory basis.

6. Checklist Item 6: Unbundled Local Switching

Unbundled Local Switching. Qwest satisfies the requirements of Section 271(c)(2)(B)(vi) of the Act concerning unbundled local switching. Qwest provides local circuit switching unbundled from transport, local loops and other services. *See generally* Declaration of Lori A. Simpson and Karen A. Stewart, Unbundled Switching and Packet Switching (“Simpson/Stewart Switching Decl.”), Att. 5, App. A; *see also* 47 U.S.C. §§ 251(c)(3); 47 C.F.R. § 51.319(c)(1). As required by the Commission, Qwest provides access to line-side and trunk-side facilities, basic switching functions, vertical features, and customized routing. *New York 271 Order*, 15 FCC Rcd at 4127-29 ¶¶ 343, 346; *Kansas/Oklahoma 271 Order*, 16 FCC Rcd at 6361 ¶ 242; Simpson/Stewart Switching Decl. ¶¶ 11-14. Qwest also provides access to local tandem switching facilities in a nondiscriminatory manner, as required by the Act and the Commission’s rules. 47 C.F.R. § 51.319(c)(3); Simpson/Stewart Switching Decl. ¶¶ 36-38.

Qwest offers unbundled local switching in combination with other UNEs or on a stand-alone basis. SGAT §§ 9.23 and 9.11; Simpson/Stewart Switching Decl. ¶ 14. All the features, functions and capabilities of Qwest’s switches are available to CLECs that purchase unbundled local switching, including access to all vertical switch features that are loaded in a Qwest switch. SGAT § 9.11.2.1; Simpson/Stewart Switching Decl. ¶¶ 12-14, 21-24. Even though not required to do so by this Commission, Qwest allows CLECs to request features that are not currently resident in the switch and to purchase features in any technically feasible combination. *Id.* ¶ 22; *see also Louisiana II 271 Order* at 20727-28 ¶¶ 218-19.

Only one CLEC in Minnesota has ordered unbundled local switching as a stand-alone product; because of the extremely low demand for stand-alone switching, no performance measures have been established. However, Qwest does successfully and promptly install and repair unbundled local switching as part of UNE-P for CLECs in commercial volumes.

Simpson/Stewart Switching Decl. ¶ 19. Qwest's UNE-P performance is discussed in this brief under Checklist Item 2, Section III(B)(2), above.

Packet Switching. Qwest offers CLECs unbundled packet switching in a nondiscriminatory manner when the four conditions established by the Commission are met in a specific geographic area. SGAT § 9.20.2.1; Simpson/Stewart Switching Decl. ¶¶ 42-45. Unbundled packet switching provides the functionality of delivering and routing packet data units via a virtual channel to a CLEC demarcation point. Unbundled packet switching includes transport facilities, ATM electronics, and the Digital Subscriber Line Access Multiplexer ("DSLAM") functionality with the routing and addressing functions of the packet switch necessary to generate the virtual channel. Packet switching may also include use of a shared, line-split or distribution subloop. To date, no CLECs have ordered packet switching from Qwest. Simpson/Stewart Switching Decl. ¶ 52.

7. Checklist Item 7: Access to 911, E911, Directory Assistance, and Operator Call Completion Services

a) 911 and Enhanced 911 Services

Qwest offers CLECs unbundled access to its 911 and Enhanced 911 ("E911") services, databases and interconnection, including the provision of dedicated trunks from CLECs' switching facilities to the 911 control office, at parity with what Qwest provides to itself. *See* 47 U.S.C. § 271(c)(2)(B)(vii). Qwest maintains 911 database entries for CLECs with the same accuracy and reliability that it maintains entries for its own customers. Declaration of Margaret S. Bumgamer, 911 and E911 Access ("Bumgamer 911 Decl."), Att. 5, App. A, ¶¶ 19-23. From an end user's perspective, a CLEC's 911 and E911 services, provided through access to Qwest's network, are indistinguishable from Qwest's 911 and E911 services. *Id.* ¶ 17. Qwest has taken all actions directed by the MPUC in order to demonstrate compliance with the

requirements of Checklist Item 7(I). *Id.* ¶¶ 46-48. Moreover, the Commission has previously determined that Qwest meets the requirements of this checklist item. *Qwest 271 Order* ¶ 376.

Qwest's E911 database is managed by a third party, Intrado, Inc. ("Intrado") (formerly SCC Communications Corp.). Bumgamer 911 Decl. ¶ 6. The SGAT and Qwest's contract with Intrado require Qwest to provide and manage database entries for CLECs with the same accuracy and reliability as that provided for Qwest. *Id.* Qwest offers the same database updates for reseller CLECs and CLECs using unbundled local switching that Qwest provides for its own customers. *Id.* Facilities-based CLECs with their own switches make direct arrangements with Intrado for providing database updates. *Id.* CLECs make the same direct arrangements with Intrado for providing and processing database updates that Qwest makes with Intrado. Qwest, through Intrado, provides CLECs with nondiscriminatory error correction for database records. *Id.*

(1) Qwest Is Providing Commercial Volumes at an Acceptable Level of Quality

Enhanced 911 service is available throughout Minnesota. Qwest, therefore, no longer provides Basic 911 service in the state. *Id.* ¶¶ 48. As of December 31, 2002, Qwest had in service 797 E911 trunks for 34 facilities-based CLECs in the state. *Id.* Qwest also was providing access to E911 service for 36 reseller CLECs and CLECs using unbundled local switching in Minnesota. *Id.*

(2) Qwest's Commercial Performance Is Excellent

With respect to the average time required for Qwest to update the E911 database, due to the nondiscriminatory manner ("parity by design") in which these updates are performed, the performance results are not disaggregated for Qwest and CLECs. Williams Decl. ¶¶ 259. The E911 database updates (completed service orders) for Qwest and CLECs are commingled

and sent together in a batch data transmission at the end of each business day. Bumgarner 911 Decl. ¶ 31

With respect to 911/E911 trunk installations, commitments met, and service quality, maintenance and repair from October 2002 through January 2003, Qwest's commercial volumes were very low, but where there are data to report, Qwest generally achieved parity between wholesale and retail service during the entire four-month period. Williams Decl ¶¶ 257-62.

b) Directory Assistance Services and Operator Services

Qwest also offers CLECs nondiscriminatory access to directory assistance services and databases and operator services. 47 U.S.C. §§ 271(c)(2)(B)(vii)(II), (111); 251(b)(3). Qwest provides CLECs access to the same directory assistance services and operator services that Qwest provides to its retail end user customers. Declaration of Lori Simpson, Directory Assistance and Operator Services ("Simpson DA/OS Decl."), Att. 5, **App. A**, ¶ 4. All callers, regardless of the caller's or called party's local service provider, can access Qwest's directory assistance by dialing the same numbers (*e.g.* "411," "1+411," or "1+NPA+555-1212,"), and can access operator services by dialing "0" or "0" plus a telephone number. *Id.* The design of Qwest's processes for providing directory assistance services and operator services ensures that all calls are handled in the same manner regardless of whether they are originated by CLEC end users or by Qwest end users, *Id.* Qwest handles all directory assistance and operator calls on a first-come, first-served basis. *Id.* Qwest also provides branding for CLECs that purchase these services from Qwest. *Id.* Qwest makes Qwest personnel available to CLECs to assist them in accessing Qwest's directory assistance services and operator services. *Id.* Following a lengthy Minnesota specific review process, the MPUC did not require Qwest to make any changes to its SGAT, its rates for operator services and directory assistance, or its customized routing offering

in order to demonstrate compliance with Checklist Items 7(II and III). *Id.* ¶¶ 59-61. In addition, the Commission has previously determined that Qwest meets the requirements of this checklist item. *Qwest 271 Order* ¶ 377.

Qwest also offers nondiscriminatory access to its directory assistance database on a real-time, “per dip” basis, to CLECs that elect to provide directory assistance or operator services themselves or through a third party. *Simpson DA/OS Decl.* ¶ 41. In addition, a CLEC can purchase access in bulk to Qwest’s directory assistance database in order to create its own directory assistance database. *Id.* ¶ 42.

(1) Qwest Is Providing Commercial Volumes at an Acceptable Level of Quality

As of December 31, 2002, Qwest provides directory assistance and operator services to 36 reseller and/or UNE-P CLECs in Minnesota. *Id.* ¶¶ 62. **As** of the same date, Qwest has in service 92 directory assistance trunks for six facilities-based CLECs, and 509 operator service trunks for 17 facilities-based CLECs in the state. *Id.*

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With respect to the average time required for Qwest’s directory assistance system and operator service system to answer calls, due to the nondiscriminatory manner (“parity by design”) in which such calls are answered, the performance results are not disaggregated for Qwest and CLECs. *Williams Decl.* ¶ 263. From October 2002 through January 2003, Qwest’s directory assistance system answered calls in an average of between 7.69 and 8.51 seconds. *Id.* ¶¶ 264. Qwest’s operator service system answered calls in an average of between 8.20 and 9.03 seconds. *Id.*

8. Checklist Item 8: White Pages Listings

Qwest provides CLECs with white pages directory listings that are nondiscriminatory in appearance and integration, and that have the same accuracy and reliability that Qwest provides for its own customers. 47 U.S.C. § 271(c)(2)(B)(viii); Declaration of Lori Simpson, White Pages Directory Listings (“Simpson White Pages Decl.”), Att. 5, App. A, ¶ 11. Two Minnesota ALJs found that Qwest provides CLECs with nondiscriminatory access to white pages directory listings in compliance with Section 271. *Id.* ¶¶ 39-40; *Minnesota PUC ALJ Recommendations for Checklist Items 3, 7, 8, 9, 10, and 12* at 38. Additionally, Qwest has taken all actions directed by the MPUC in order to demonstrate compliance with the requirements of Checklist Item 8. Simpson White Pages Decl. ¶ 39-40. Moreover, the Commission has previously determined that Qwest meets the requirements of this checklist item. *Qwest 271 Order* ¶ 392.

Qwcst’s white pages listings service includes (1) placing and updating the names, addresses, and telephone numbers of CLEC end user customers in Qwest’s listings databases consistent with the CLEC’s instructions, and (2) furnishing listings to Dex and third-party directory publishers on a nondiscriminatory basis for use in publishing local white pages directories, also consistent with the CLEC’s instructions. Simpson White Pages Decl. ¶ 14. Qwest offers CLECs exactly the same listings options (primary, premium, and privacy) that Qwest provides to its own customers, with the same level of confidentiality. *Id.* ¶¶ 15-17.

Primary listings are included in both the white pages of the local telephone directory and Qwest’s directory assistance database. *Id.* ¶ 15. Qwest provides one primary listing for each main telephone number at no charge to CLECs. *Id.* Premium listings also are included in both the local white pages directories and Qwest’s directory assistance database. *Id.* ¶ 16. Nonpublished telephone numbers are omitted from both Qwest’s directory assistance

database and while pages directories. *Id.* ¶ 17. Qwest treats CLEC end user listings with the same level of confidentiality as Qwest's end user listings. *Id.*

Qwest integrates CLEC end user listings with Qwest, other CLECs, and independent telephone company listings in Qwest's listings database. Qwest's processes for entry and publication of white pages directory listings make no distinction between customers of CLECs and customers of Qwest. *Id.* ¶ 18. Qwest provides its integrated listings to Dex and to other directory publishers for the purpose of publishing white pages directories. SGAT § 10.4.2.8.

In addition, while pages directory listings for both Qwest end user and CLEC end user customers appear in the same font, size, and typeface, and without any separate classification or distinguishing characteristics. SGAT § 10.4.2.10. White pages listings for CLEC customers are included alphabetically and are indistinguishable from Qwest's listings. Simpson White Pages Decl. ¶ 18.

Qwest uses the same procedures for Qwest listings and CLEC listings to ensure that CLEC end users receive listings with the same accuracy and reliability that Qwest provides for its own end users. *Id.* ¶¶ 24-30. Qwest and CLEC end user listings are commingled in the Qwest listings database. *Id.* ¶ 24. Qwest submits a single daily listings file containing commingled listings to its directory publisher, Dex, for inclusion in white pages directories. *Id.* Dex publishes CLEC and Qwest end user listings under the terms and conditions of the contract between Qwest and Dex. *Id.*

a) Qwest Is Providing Commercial Volumes at an Acceptable Level of Quality

As of December 31, 2002, Qwest had included a total of 282,820 Minnesota CLEC listing in its listings database and submitted those listings that are non-private listings to Qwest's directory publisher. *Id.* ¶¶ 41

b) Qwest's Commercial Performance is Excellent

With respect to the average time required for Qwest to complete updates to the directory assistance database, due to the nondiscriminatory manner ("parity by design") in which these updates are processed, the performance results are not disaggregated for Qwest and CLECs. Williams Decl. ¶ 266. From October 2002 through January 2003, Qwest completed updates to the directory listings database in an average of between 0.05 and 0.34 seconds. *Id.* ¶ 267. In the same period, Qwest completed between 94.43 and 99.02 percent of updates without error. *Id.*

9. Checklist Item 9: Numbering Administration

Qwest follows both industry guidelines and the FCC's rules regarding numbering administration. Qwest has concrete and specific legal obligations pursuant to Section 13.2 of its SGAT and its state regulator-approved interconnection agreements to comply with industry guidelines and FCC rules regarding numbering administration. Declaration of Margaret S. Bumgamer, Numbering Administration ("Bumgamer Numbering Admin. Decl."), Att. 5, **App. A**, ¶ 14. Two Minnesota ALJs found that Qwest complies with all numbering administration rules, regulations, and guidelines. *Id.* ¶ 23; *Minnesota PUC ALJ Recommendations for Checklist Items 3, 7, 8, 9, 10, and 12* at 40. In addition, the Commission previously has determined that Qwest meets the requirements of Checklist Item 9. *Qwest 271 Order* ¶ 392.

Qwest stopped performing any numbering administration or assignment functions on September 1, 1998, when the Commission transferred those functions to Lockheed Martin (and later to NeuStar), as the North American Numbering Plan Administrator (“NANPA”). Bumgamer Numbering Admin. Dec. ¶ 15. Since that time, Qwest has complied with all industry guidelines and Commission rules applicable to carriers with respect to numbering administration. *Id.* ¶¶ 15-17, 21. For example, Qwest provides accurate reporting of numbering data to NeuStar in accordance with the Alliance for Telecommunications Industry Solutions Central Office Code (“NXX”) Assignment Guidelines (“Assignment Guidelines”) and the Commission’s number assignment rules. *Id.* ¶ 15-17. Qwest also provides accurate and complete information regarding routing information, rating information, and effective dates for NXX codes assigned to Qwest to the national Local Exchange Routing Guide (“LERG”). *Id.*

Qwest has devoted resources and implemented processes to ensure that it completes the programming of its switches necessary to recognize new NXX codes accurately and prior to NXX code activation dates. *Id.* Qwest also has implemented procedures that CLECs can follow to report suspected problems with NXX code activations. *Id.* For NXX codes, Qwest complies with the Assignment Guidelines and with the Commission’s number assignment rules in administering the numbers within those NXX codes and in applying for new NXX codes.

Id. ¶ 21

The performance results for the relevant PIDs demonstrate that Qwest activates NXX codes for CLECs in a timely and complete manner on a nondiscriminatory basis. Williams Dec. ¶¶ 269-271. From November 2002 through January 2003, Qwest loaded and tested 100% percent of the CLEC NXX codes prior to the LERG effective date or the revised effective date (there were no CLEC code activations in October 2002). *Id.* ¶ 270. There were no Qwest NXX

code activations in the last four months. In fact, region-wide Qwest completed 100% of the NXX code activations on time. *Id.* ¶ 271.

10. Checklist Item 10: Databases and Associated Signaling

Qwest provides nondiscriminatory access to its call-related databases and the associated signaling necessary for call routing and completion in compliance with Section 271(c)(2)(B)(x) of the 1996 Act and the FCC's rules. Qwest has concrete and specific legal obligations to provide CLECs with such access pursuant to its SCAT and its state-approved interconnection agreements. Declaration of Margaret Bumgarner, Call-Related Databases and Associated Signaling ("Bumgarner Databases/Signaling Decl."), Att. 5, App. A, ¶¶ 3, 10. The Commission previously has determined that Qwest meets the requirements of this checklist item. *Qwest 271 Order* ¶ 379.

Consistent with the FCC's rules, Qwest provides CLECs with unbundled, nondiscriminatory access to its signaling network, including signaling links and signaling transfer points ("STPs"), and to Qwest's call-related databases and service management systems ("SMS"). Bumgarner Databases/Signaling Decl. ¶ 15, 24. Reseller CLECs and CLECs using unbundled local switching have exactly the same access to Qwest's signaling network that Qwest uses to provide services to its own retail customers. *Id.* ¶ 19. CLECs that use their own switching facilities can obtain access to Qwest's signaling network by self-provisioning or purchasing unbundled signaling links to facilitate signaling among their own switches, Qwest end office and tandem switches, the switches of other carriers connected to the Qwest SS7 network, and call-related databases. *Id.* ¶ 20. CLECs that use their own switching facilities can obtain access to Qwest's STPs by interconnecting their switches directly to Qwest's STPs or interconnecting their STPs with Qwest's STPs. *Id.* Qwest's signaling network and call-related databases automatically handle all call routing and database queries in the same manner,

regardless of whether a query originates on a CLEC network or on Qwest's network. *Id.* ¶ 26
Qwest's signaling network commingles all call routing messages and database queries, and
Qwest's call-related databases process all queries on a first-come, first-served basis. *Id.*

Qwest also provides CLECs with unbundled access to the STPs linked to Qwest's
call-related databases. *Id.* ¶ 5. Qwest's call-related databases include the Line Information
database ("LIDB"), InterNetwork Calling Name ("ICNAM") database, Toll Free Calling
("8XX") database, Local Number Portability ("LNP") database, Enhanced ("E911") database,
and Advanced Intelligent Network ("AIN") databases. *Id.* ¶¶ 27-44. If any additional databases
are determined to be necessary for call routing and completion, Qwest will make such databases
and associated signaling available to requesting carriers. *Id.* ¶ 45

In addition to providing CLECs with access to its signaling network, STPs, and
call-related databases, Qwest provides CLECs with access to Qwest's SMS in order to create,
modify, or update information in the call-related databases, and to Qwest's service creation
environment in order to design, create, test, and deploy AIN-based services. *Id.* ¶ 6

Qwest's call-related database updating processes commingle updates for Qwest
and updates for CLECs, and thus do not distinguish between them. Williams Decl. ¶¶ 272-75.
Due to the nondiscriminatory manner ("parity by design") in which the updates are performed,
the performance results are not disaggregated for Qwest and CLECs, and there is no benchmark
objective for these PIDs. *Id.*

**a) Qwest Is Providing Commercial Volumes at an Acceptable
Level of Quality**

As of December 31, 2002, the most recent period for which data is available, nine
facilities-based CLECs in Minnesota were purchasing unbundled access to Qwest's signaling
network. As of the same date, four facilities-based carriers were purchasing access to Qwest's

8XX database, live were purchasing access to Qwest's LIDB, four were purchasing access to Qwest's ICNAM database, none was purchasing access to Qwest's AIN database, 11 were purchasing access to Qwest's LNP database, and 34 facilities-based CLECs were accessing the E911 database. Bumgarner Databases/Signaling Decl. ¶ 51

b) Qwest's Commercial Performance is Excellent

Qwest's LIDB update process commingles Qwest and CLEC records and thus does not distinguish between updates for Qwest versus updates for CLECs. *Id.* ¶ 30. Similarly, Qwest's E911 database update processes do not distinguish among updates for Qwest and updates for CLECs. *Id.* In addition, Intrado, Inc., the third party entity that manages Qwest's E911 database, has committed to providing E911 database management services to all CLECs and independent companies operating in the Qwest region in a manner that is competitively neutral to, and at parity with, that provided to Qwest. *Id.* ¶ 38. Due to the nondiscriminatory manner ("parity by design") in which the LIDB and E911 updates are performed, the performance results are not disaggregated for Qwest and CLECs. Williams Decl. ¶ 273.

From October 2002 through January 2003, Qwest completed updates to the LIDB in an average of between 1.42 and 1.75 seconds. *Id.* ¶ 274.

11. Checklist Item 11: Local Number Portability

Qwest satisfies the requirements of Section 271(c)(2)(B)(xi) of the 1996 Act and the FCC's number portability regulations. Specifically, Qwest has complied with the FCC's long-term local number portability ("LNP") implementation schedule; performance criteria; technical, operational, architectural, and administrative requirements; and cost recovery rules for LNP. Declaration of Margaret S. Bumgarner ("Bumgarner LNP Decl."), Att. 5, App. A, ¶ 3. Qwest has concrete and specific legal obligations to provide LNP pursuant to Section 10.2 of its SGAT and through its MPUC-approved interconnection agreements. *Id.* Two Minnesota ALJs

found that Qwest provides number portability in compliance with Section 271. *Id.* ¶ 32; *Minnesota PUC ALJ Recommendations for Checklist Items 1, 2, 4, 5, 6, 11, 13, and 14* at 105. Moreover, the Commission previously has determined that Qwest meets the requirements of Checklist Item 11. *Qwest 271 Order* ¶ 381.

As of October 2000, Qwest had deployed long-term number portability throughout Minnesota, making LNP available to 100 percent of Qwest's access lines in the state. Bumgarner LNP Decl. ¶ 4. Qwest deployed LNP and completed switch selection in Minnesota in full compliance with the FCC's deployment schedule. *Id.* Qwest also has complied with the FCC's LNP performance criteria through its deployment of LNP utilizing the Location Routing Number ("LRN") method in conformance with industry guidelines. *Id.* ¶ 5. The FCC has recognized the LRN method as consistent with the FCC's LNP performance criteria. *Id.*

In addition, Qwest has complied with the FCC's technical, operational, architectural, and administrative requirements for number portability by (1) integrating National Portability Administration Center ("NPAC") Service Management System ("SMS") Provisioning Process Flows into its number porting functions and OSS; (2) implementing number portability in compliance with the NPAC SMS Functional Requirements Specification ("FRS") and Interoperable Interface Specification ("IIS"); (3) developing processes to port reserved numbers in compliance with North American Numbering Council ("NANC") policies; (4) complying with the NANC's change management process; (5) designing Qwest's network to perform database queries as the N-1 carrier; and (6) integrating a process for the "snapback" of disconnected ported numbers to the service provider listed in the national Local Exchange Routing Guide ("LERG"). *Id.* ¶ 28.

Finally, Qwest has complied with the FCC's cost recovery rules for LNP by establishing monthly number portability charges and number portability query charges in its Tariff F.C.C.No. 1 (formerly Tariff F.C.C.No. 5). *Id.* ¶ 30. The FCC found the LNP charges in this tariff to be reasonable and lawful in an order released July 16, 1999. *Long-Term Number Portability Tariff Order*, 14 FCC Rcd at 11085 ¶ 3

a) Qwest Is Providing Commercial Volumes at an Acceptable Level of Quality

As of December 31, 2002, Qwest had ported 714,557 telephone numbers in Minnesota. Bumgamer LNP Decl. ¶ 33.

b) Qwest's Commercial Performance Is Excellent

Qwest consistently performed above the 95% benchmark for PIDs OP-8B and OP-8C in each month. Williams Decl. ¶ 277. From October 2002 through January 2003, Qwest set between 99.21% and 99.88% of LNP triggers for coordinated loop cutovers prior to the scheduled start time for the loop. *Id.* In the same period, Qwest set 94.62% to 99.88% of LSA triggers for LNP orders not requiring loop coordination prior to the scheduled start time for the LNP cutover. *Id.* Qwest also completed between 99.97% and 100% of CLEC ports without implementing associated disconnects before the scheduled time/date, consistently performing far in excess of the 98.25 percent benchmark for OP-17. *Id.* In addition, in the same period, Qwest cleared all the wholesale LNP troubles reports it received within the 4-hour and 48-hour timeframes of MR-11A and MR-11B. *Id.*

12. Checklist Item 12: Local Dialing Parity

Qwest satisfies the requirements of Sections 271(c)(2)(B)(xii) and 251(b)(3) of the 1996 Act regarding dialing parity. Qwest has concrete and specific legal obligations to provide dialing parity pursuant to its SCAT and its state-approved interconnection agreements.

SCAT § 14.0; Declaration of Margaret S. Bumgarner (“Bumgarner Dialing Parity Decl.”), Att. 5, App. A, ¶ 3. Two Minnesota ALJs found that Qwest provides nondiscriminatory local dialing parity in compliance with Section 271. *Id.* ¶ 16; *Minnesota PUC ALJ Recommendations for Checklist Items 3, 7, 8, 9, 10, and 12* at 48. In addition, the Commission previously has determined that Qwest meets the requirements of Checklist Item 12. *Qwest 271 Order* ¶ 392.

Qwest provides dialing parity to competitive providers of telephone exchange service and telephone toll service. Bumgarner Dialing Parity Decl. ¶¶ 11-12. Qwest does not discriminate against CLECs with respect to the number of digits dialed, post-dialing delays, or quality of service. *Id.* ¶ 11. Both CLEC and Qwest customers dial the same number of digits without any access codes for local and toll telephone calls and to access operator and directory assistance services. *Id.* ¶ 12.

Qwest also provides CLECs with the same quality of service that Qwest provides to its own end users with no additional post-dialing delays. *Id.* ¶ 13. First, Qwest does not impose any requirement or technical constraint that would cause CLEC customers to experience longer post-dialing delays or inferior quality service. *Id.* Second, the design of Qwest’s systems and processes ensures the equal treatment of all end user calls. *Id.* ¶ 14. The processing of calls in Qwest’s central offices is the same for both CLEC and Qwest customers. *Id.* Qwest’s network does not distinguish between calls from CLEC end users and calls from Qwest end users. *Id.*

Because the design of Qwest’s network ensures that all customers receive the same dialing intervals and quality of service, the participants in the ROC performance measures workshops determined that performance measures and testing are not necessary for this checklist item. *Id.* The FCC also has determined that performance measures are not necessary for this

checklist item. *Id.*; *Local Competition/Area Code Relief Second Report and Order*, 11 FCC Rcd 19407, I0467 ¶ 162 (1996)

13. Checklist Item 13: Reciprocal Compensation

Qwest complies with the FCC's reciprocal compensation requirements in that Qwest's SGAT provides for Qwest and interconnecting local carriers to pay one another symmetrical rates for the transport and termination of local telecommunications traffic. *See Quest 271 Order* ¶ 392 ("In addition to showing compliance with the statutory requirements discussed above . . . we conclude, as did each of the state commissions that Qwest complies with the requirements of . . . checklist item . . . 13."); *see also generally* SGAT § 7.3. For transport, interconnecting local carriers may choose either Qwest's Direct Trunked Transport, Tandem Switched Transport, or a combination of the two. Declaration of Thomas R. Freeberg, Reciprocal Compensation ("Freeberg Recip. Comp. Decl."), Att. 5, App. A, ¶¶ 20-29. Each option provides transmission of local telecommunications traffic from the interconnection point between the two carriers to the terminating carrier's end office switch or equivalent facility.

When Qwest fulfills a CLEC request for two-way trunk groups used for transport of interconnected traffic, Qwest's cost recovery emulates one-way trunking. A "relative use factor" reduces a CLEC's flat-rated transport charges by reflecting only the proportion of local traffic that flows to Qwest from the CLEC over the trunk. *Id.* ¶¶ 23-24. Usage sensitive charges are applied by Qwest only to those specific minutes of traffic flowing from a CLEC toward Qwest. During the workshop process, Qwest agreed to allow CLECs to establish a local exchange service trunk group on transport purchased from exchange access tariffs. *See* SGAT § 7.3.1.1.2; Freeberg Recip. Comp. Decl. ¶ 25. However, while CLECs may use spare special access circuits for local exchange traffic, the Minnesota ALJ reached the conclusion that tariffed exchange access rates should be unaffected, and recommended approval of Qwest's position that

it not be required to “ratchet down” the flat transport rate (*i.e.*, charge proportionally less) when spare capacity is used to carry local traffic, rather than requiring CLECs to continue to pay Qwest’s federally tariffed special access rate (which is higher than TELRIC rates they pay for interconnection). *See* Freeberg Recip. Comp. Decl. ¶¶ 25-26; *see also Minnesota PUC ALJ Recommendations for Checklist Items 1, 2, 4, 5, 6, 11, 13, and 14* at 17. This Commission ratified similar rulings in granting the Qwest III application. *See Qwest 271 Order* ¶¶ 319, 392.

Qwest also provides Tandem Switched Transport to enable interconnecting carriers to complete local calls to every end office connected to a Qwest tandem by establishing just one new tmnk group. Freeberg Recip. Comp. Decl. ¶ 27. Tandem Switched Transport is a per-minute charge to recover the cost of tandem switching and of transport from the tandem to the end office, since trunks between these offices are used in “common” with other services. *Id.* A per-minute rate also applies to common transport from host switching offices to remote switching offices in a host-remote switching cluster. *Id.* ¶ 28.

Call Termination charges help recover the cost of switching of local telecommunications traffic at the terminating carrier’s end office switch (or equivalent facility) for delivery to the called party’s premises. Where reciprocal compensation payments are required, Qwest has charged, and has paid, a per-minute rate for the use of the end office terminating switch. *Id.* ¶ 29.

While not relevant to whether Qwest has demonstrated checklist item 13 satisfaction, Qwest has implemented the *FCC ISP Order* on reciprocal compensation for Internet-bound traffic. Where Qwest and another carrier were engaged in a bill-and-keep form of reciprocal compensation at the time the *FCC ISP Order* on reciprocal compensation for Internet-bound traffic was released, the carriers were unaffected. For other CLECs, under

Section 7.3.6 of the SGAT, Qwest generally elects to exchange all Internet-bound traffic at the FCC-ordered rate, and Qwest makes clear the rate for ISP-bound traffic applies in lieu of the End Office Call Termination rate and the Tandem Switched Transport rate. SGAT § 7.3.4.3.

Because Qwest has elected to exchange ISP-bound traffic at the rates ordered in the *FCC ISP Order*, compensation is paid at rates specified therein for usage-based intercarrier compensation configurations exchanging traffic pursuant to interconnection agreements as of April 18, 2001, when the *FCC ISP Order* was adopted. **See** Freeberg Recip. Comp. Decl. ¶ 31; **see generally** SGAT §§ 7.3.6.1-7.3.6.2.

In addition, CLECs have two options for the rating of EAS/Local traffic, *i.e.*, traffic subject to § 251(b)(5) of the Act: (1) in lieu of the End Office Call Termination rate and Tandem Switched Transport rate, the rates applicable to § 251(b)(5) traffic will be the same as those established for ISP-bound traffic, *id.* § 7.3.4.4.1; or (2) at a rate established by the MPUC, and pursuant to a process collaboratively established by Qwest and the CLEC to distinguish § 251(b)(5) traffic from ISP-bound traffic. Freeberg Recip. Comp. Decl. ¶ 32; SGAT §§ 7.3.4.4.1, 7.3.4.4.2.

Qwest also offers transit service that allows CLECs to interconnect indirectly with other local carriers using Qwest's tandem, thus allowing a CLEC to avoid investment in facilities otherwise necessary to exchange local calls with non-Qwest local carriers. SGAT § 7.3.7.1. The Transit Traffic rate element includes tandem switching and transport charges and applies to all usage among CLECs (and between a CLEC and a wireless carrier and/or an independent LEC) that transits Qwest's tandem switch. Freeberg Recip. Comp. Decl. ¶¶ 35-36. The originating carrier is responsible for paying the appropriate rates to two carriers, the terminating carrier and

the transit carrier. Qwest and the terminating carrier may exchange traffic records to enable the terminating carrier to collect reciprocal compensation from the originating carrier.

Qwest exchanges significant volumes of traffic in Minnesota and pays reciprocal compensation therefor, pursuant to its **SGAT** and negotiated, state-approved interconnection agreements, each of which provides for a version of reciprocal compensation. From January 1, 2002 through December 31, 2002, Qwest paid CLECs \$10,502,449 and billed CLECs \$2,104,524 for reciprocal compensation in Minnesota, based on traffic exchanged with ten actively operating CLECs, and Qwest exchanged over 1.5 billion minutes of usage with those CLECs in December 2002. Freeberg Recip. Comp. Dec. ¶ 43.

Qwest calculates reciprocal compensation performance using two PIDs. The BI-3 PID evaluates the accuracy with which Qwest bills CLECs, focusing on the percentage of billed revenue adjusted due to errors, by measuring the billed revenue minus adjustments due to errors as a percentage of total billed revenue; BI-3B measures reciprocal compensation minutes of use (excluding billing adjustments due to CLEC-caused errors). The BI-4 PID measures the completeness with which Qwest bills for local minutes of use associated with local interconnection for purposes of reciprocal compensation. Specifically, BI-4B measures the percentage of revenue associated with local minutes of use appearing on the correct reciprocal compensation bill.

Qwest's performance in Minnesota under BI-3B and **BI-4B** for the period August through November 2002 was perfect. *See* Att. 5, App. D, Minnesota Performance Results, at 285. Qwest met both the BI-3B 95% billing completeness and BI-4B 95% billing accuracy benchmarks in each of the past four months. *Id.*

14. Checklist Item 14: Resale

Qwest makes available for resale, at wholesale rates established by the MPUC, all of the telecommunications services it offers its retail customers who are not telecommunications carriers. 47 U.S.C. § 271(c)(2)(B)(xiv). Declaration of Lori Simpson, Resale (“Simpson Resale Decl.”), Att. 5, App. **A**; Declaration of D.M. Gude, Resale Discounts (“Gude Decl.”), Att. 5, App. **A**. Qwest offers its resale services under rates, terms and conditions that are reasonable and nondiscriminatory and thereby complies with Checklist Item 14 in Minnesota.

SGAT §§ 6.1.1 and 6.2.3. Through its SGAT and state-approved interconnection agreements, in Minnesota, Qwest has undertaken a legally binding obligation to offer for resale by CLECs telecommunications services that are equal in quality to, and provided in substantially the same time and manner as, the telecommunications services that Qwest provides to itself and its retail end users. Simpson Resale Decl. ¶ 11. 33/

As of December 31, 2002, Qwest was providing 62,485 resold lines to 36 reseller CLECs in Minnesota. Simpson Resale Decl. ¶ 12.

In accordance with FCC rules, Qwest imposes only reasonable and nondiscriminatory limitations on the resale of telecommunications products and services. Consistent with 47 C.F.R. § 51.613, CLECs may resell a Qwest service only to the same class of end user to which Qwest itself sells that service where such restriction has been approved by the MPUC. SGAT § 6.2.2; Simpson Resale Decl. ¶ 20. The SGAT lists state-approved restricted classes. SGAT §§ 6.2.2.8 and 6.2.2.3; Simpson Resale Decl. ¶ 20. Qwest grants resellers access

33/ The Minnesota ALJ found that the assertion that unfiled agreements resulted in resale price and service discrimination between CLECs would be remedied in the MPUC’s Unfiled Agreements docket, in accordance with the FCC approach to bifurcate enforcement actions from the Section 271 approval process. Simpson Resale Decl. ¶ 19. As is more fully set forth in the Declaration of John Stanoch, at Att. 5, App. **A**, Qwest filed on March 10, 2003, a motion for reconsideration of the MPUC’s February 28, 2003 order in the unfiled agreements proceeding.

to promotional offerings of more than 90 days at the wholesale discount, consistent with Commission policy. SGAT § 6.2.2.1; Simpson Resale Declaration ¶ 21. ^{34/} Resellers may sell any of Qwest's contract service arrangements to any end user customer or customers that meet the terms and conditions of that particular arrangement, subject to termination liabilities consistent with Commission precedent. SGAT § 6.2.2.7; Simpson Resale Decl. ¶ 22; *New York 271 Order*, 15 FCC Rcd at 4147-48 ¶ 390. ^{35/}

Pursuant to SGAT § 6.1.1, Qwest complies with its obligations under Section 251(c)(4) of the Act to offer for resale, at wholesale rates, any "advanced" telecommunications service that Qwest provides "at retail to subscribers who are not telecommunications carriers." 47 U.S.C. § 251(c)(4); *see generally* ASCENT, 235 F. 3d at 664; *Connecticut 271 Order*, 16 FCC Rcd at 14160-61 ¶ 28; Simpson Resale Decl. ¶ 23. ^{36/} Such services include Frame Relay

^{34/} See *Local Competition First Report and Order*, 11 FCC Rcd at 15970-71 ¶ 950 (affirming 90 days as the point "when a promotional price ceases to be 'short term' and must therefore be treated as a retail rate for an underlying service").

^{35/} Section 6.2.2.7 of the Minnesota SCAT provides that Qwest will not charge any termination liability assessment ("TLA") where a CLEC seeks to provide resale service to a Qwest retail end user customer who early terminates a contract service arrangement at the time of conversion to resale and that Qwest will provide in the final bill of customers charged a TLA a printed statement that TLA charges may not apply if the customer's local Qwest retail telephone service has been converted to resale service provided by a Minnesota reseller CLEC. Simpson Resale Decl. ¶¶ 18, 22.

SGAT Section 6.2.3.2 limits the credits to resellers based on the quality of resale service provided by Qwest to the discounted price paid by the CLEC. The Minnesota ALJ concluded that the SGAT recognizes that Qwest should be making refunds to the CLEC up to the full amount of the CLEC's payment to Qwest, and held that AT&T had not demonstrated that requiring Qwest to pay any additional portion of a payment or credit that a CLEC makes to its end user customer would be an appropriate business practice under the Act.

^{36/} Qwest's DSL service is provided from within its regulated entity, Qwest Corporation, not by an affiliate. Simpson Resale Decl. at n.35.

service, Qwest DSL service, 37/ DS1 service, DS3 service and all other “telecommunications services” that Qwest offers at retail to its end users. Simpson Resale Decl. ¶ 23. 38/ CLECs may resell, over lines on which they are reselling voice service, the DSL transmission services that Qwest offers directly to end users. *Id.*; accord *Rhode Island 271 Order*, 17 FCC Rcd at 3347-48 ¶ 95. 39/

371 In the *Arkansas/Missouri 271 Order*, the Commission distinguished among “three categories of DSL-related service: (1) retail telecommunications service offered for resale at discount, (2) wholesale telecommunications services offered to unaffiliated ISPs, and (3) retail information service.” 16 FCC Rcd at 20758 ¶ 79. Of these, only the first – unbundled DSL transmission services that an ILEC provides to end users – is subject to the resale requirements of Section 251(c)(4). *See generally id.* at 20758-60 ¶¶ 79-82; *Broadband Access NPRM*, 17 FCC Rcd at 3030, 3032-33 ¶¶ 20, 24-25. Qwest complies with these requirements by providing for resale the first category of service (“Qwest DSL Service”). Simpson Resale Decl. at n.36. As to the second category, the Commission did not find on the record of the Qwest III proceeding that the customer-care functions provided by Qwest transformed the wholesale DSL transmission service that Qwest provides to Microsoft Network LLC, an ISP, into a retail telecommunications service within the meaning of section 251(c)(4). *See Qwest 271 Order* ¶¶ 387-89. Regarding the third category, retail information services, although some CLECs continue to argue that such services trigger certain resale requirements, the Commission has categorically rejected that argument as a basis for denying a Section 271 application. *See Arkansas/Missouri 271 Order*. 16 FCC Rcd at 20759-60 ¶ 82.

38/ Details about Qwest’s advanced telecommunications offerings available for resale can be found in Qwest’s Resale Product Catalogs. Simpson Resale Decl. at n.37.

39/ CLECs wishing to use Qwest’s facilities to offer DSL service to customers who continue to purchase retail voice service from Qwest may utilize Qwest’s standard line sharing offering, under which CLECs purchase the high-frequency portion of the loop as a UNE. Simpson Resale Decl. at n.38. Qwest is not required to offer “stand alone” DSL service to end-users that do not purchase retail voice service from Qwest, and Qwest does not do so. *Id.*; *see, e.g., Advanced Services Fourth Report and Order*, 16 FCC Rcd 2101, 2109-10, ¶ 16 (2001) (“We deny, however, AT&T’s request that the Commission clarify that incumbent LECs must continue to provide xDSL services in the event customers choose to obtain voice service from a competing carrier on the same line because we find that the *Line Sharing Order* contained no such requirement.”); *see also id.* at 2114 ¶ 26 (“Although the *Line Shaving Order* obligates incumbent LECs to make the high frequency portion of the loop separately available to competing carriers on loops where incumbent LECs provide voice service, it does not require that they provide xDSL service when they are not longer the voice provider.”); *Alabama, Kentucky, Mississippi, North Carolina, and South Carolina 271 Order* ¶ 164; *Texas 271 Order*, 15 FCC Rcd at 18354 ¶ 330.